

referenced information regarding the total number of Settlement Class Members, which had been provided by Highmark, Inc. (“Highmark”) during discovery. (Dkt. 344 at 10). Plaintiff cited, and attached as Exhibit A (Dkt. 344-1), a letter brief that Highmark submitted to the Special Master in this case that (1) referenced the total number of small group subscribers and (2) information about Plaintiff’s claimed damages that, if disclosed, could allow someone to estimate the total amount of premiums paid by the Settlement Class to HHIC. (Dkt. 344-1 at 5). Plaintiff understood that Highmark had designated both categories of information Highly Confidential under the governing Protective Order in this case (Dkt. 75), and therefore sought leave to file this information under seal. (Dkt. 338). This Court granted Plaintiff’s motion to file under seal. (Dkt. 342).

Likewise, Plaintiff and UPMC jointly filed a Motion for preliminary approval of settlement and related Matters on March 4, 2016. (Dkts. 345, 346 (sealed version docketed on March 7, 2016 at Dkts. 347 and 348)). The supporting brief contained information about the total amount of premiums paid by the Settlement Class to HHIC. (Dkt. 346 at 15). Plaintiff and UPMC also attached a declaration provided by Patrick Cavanaugh (Dkt. 346-4), which in turn attached two sets of Interrogatory Responses provided by Highmark (Exhibits 10 and 11) that also contained information about premiums paid by the Settlement Class to HHIC. (Dkt. 346-4 at 33-49). The information redacted from Exhibit 11 contains information *only* about the aggregate amount of premiums paid by Class Members to HHIC during the class period. The information redacted from Exhibit 10 provides more detailed premium information—it provides the amount of premiums paid on a year-over-year basis, as well as the number of small group subscribers on a year over year basis. Highmark designated the information contained in Exhibit 11 as “Highly Confidential” under the Protective Order, and designated the information contained in

Exhibit 10 as “Highly Confidential-Outside Counsel/Experts Only” under the Protective Order. Accordingly, Plaintiff and UPMC jointly moved to file its motion for preliminary approval under seal. (Dkt. 337).

This Court granted both Motions to Seal on March 4, 2016, but at a status conference on March 7, 2016, referred to the Special Master the issues of whether the following two categories of information should remain under seal: (1) the total amount of premiums paid by the Settlement Class to HHIC during the class period and (2) the amount of small group subscribers on a year over year basis. (March 7, 2016 docket entry). At this same status conference, Highmark represented that it does not object to disclosure of the total number of small group subscribers during the class period—it objects only to disclosure of information about year-over-year changes in HHIC’s small groups. (Ex. 1 at 9:2-6, excerpt of transcript of 3/7/2016 status conference). Therefore, the information about the total number of small group subscribers during the class period need not remain under seal.¹

In letter briefing before the Special Master, Plaintiff argued that the first category of information should be unsealed, and took no position as to whether the latter category should be unsealed (but reserved its right to argue, at a later time, that this information should be unsealed). In Report and Recommendation #5, Special Master Levie agreed that the total amount of premiums paid by the Settlement Class to HHIC during the class period should not remain under seal, but that the amount of small groups on a year over year basis should remain under seal. (Dkt. 363). During the April 6, 2016 hearing on preliminary approval of the settlement

¹ Plaintiff and UPMC submitted the information about total number of Settlement Class Members in the proposed notices attached to their Second Supplemental Brief in Support of Preliminary Approval of Settlement and Related Matters (Dkt. 367-3 at 6, 12, 19).

agreement, this Court adopted Report and Recommendation #5 in full. (Ex. 2 at 20:21-25, excerpt of transcript of April 6, 2016 hearing).

Accordingly, with respect to Plaintiff's and UPMC's Motion for Preliminary Approval of Settlement and Related Matters, Plaintiff seeks to unseal, in full, the text of the supporting brief (Dkt. 346), and Exhibit 11 to Mr. Cavanaugh's declaration (Dkt. 346-4 at 44-49) which contains only references to the total amount of premiums paid by the Settlement Class to HHIC during the class period. Consistent with this Court's order, Plaintiff does not seek to unseal Exhibit 10 to Mr. Cavanaugh's declaration (Dkt. 346-4 at 33-43), which references the number of small group subscribers on a year over year basis.

To permit Class Members to have access to the information that the Court has held should not be maintained under seal, Plaintiff seeks to file unredacted versions of the Motion in Support of Preliminary Certification of the Settlement Class and supporting papers (Dkts. 345, 346 (sealed version docketed on March 7, 2016 at Dkts. 347 and 348)) and Plaintiff's and UPMC's Motion for Preliminary Approval of Settlement and Related Matters (Dkts. 345, 346 (sealed version docketed on March 7, 2016 at Dkts. 347 and 348)) on the docket. Plaintiff would maintain redactions on Exhibit 10 to Mr. Cavanaugh's declaration (Dkt. 346-4 at 33-43) as this information is to be maintained under seal.

Dated: April 12, 2016

Respectfully submitted,

/s/ Hamish Hume

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CERTIFICATE OF SERVICE

The undersigned certifies that, on April 12, 2016, a true and correct copy of the foregoing was served on all counsel of record by the Court's electronic filing system (CM/ECF).

/s/ Hamish Hume

Hamish Hume